## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

S.S., S.V., and S.A., through their : adoptive parents and next friends : LINDA BAKER and WARREN : BAKER, :

.

Plaintiffs,

: 3:20-CV-215

(JUDGE MARIANI)

WAYNE COUNTY CHILDREN AND

Defendant.

<u>ORDER</u>

AND NOW, THIS \_\_\_\_\_DAY OF MARCH 2021, upon de novo review of

Magistrate Judge Carlson's Report and Recommendation ("R&R") (Doc. 22), IT IS HEREBY

## ORDERED THAT:

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YOUTH SERVICES,

- 1. For the reasons set forth in this Court's accompanying memorandum opinion, the R&R (Doc. 22) is **ADOPTED AS MODIFIED**:
  - A. Magistrate Judge Carlson's recommendation that Plaintiffs were required to request reconsideration of the ALJ's decision by the Secretary of the Department of Human Services pursuant to 55 Pa. Code § 275.4(h)(4)(ii) prior to filing their Complaint with this Court (Doc. 22 at 13–15) is **ADOPTED**.
  - B. However, the Court declines to adopt the recommendation that Plaintiffs were required to seek further review from the Commonwealth Court of

Pennsylvania pursuant to 55 Pa. Code § 275.4(h)(4)(iv) prior to filing their Complaint with this Court (Doc. 22 at 13–15).

- Defendant's Objections (Doc. 23) are GRANTED IN PART AND OVERRULED IN
  PART for the reasons set forth in this Court's accompanying memorandum opinion.
- 3. Defendant's Motion to Dismiss (Doc. 7) is **GRANTED**.
- 4. Plaintiffs' Complaint (Doc. 1) is **DISMISSED WITHOUT PREJUDICE.**

Robert D. Mariani

United States District Judge